

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. 10/689,027

Applicant: Muskin

Filed: 10/21/2003

Group Art Unit: 3714

Examiner: Harper

Customer No. 43,536

Commissioner for Patents
P.O. Box 1450
Alexandria Va 22313-1450

**REQUEST FOR SUSPENSION OF ACTION UNDER 37 CFR 1.103
POTENTIAL INTERFERENCE**

Sir:

The Applicant respectfully requests under 37 CFR 1.103(a) a suspension of action by the Examiner/Office for this application for a period of 6 months.

The applicant submits that there is good and sufficient cause for temporarily suspending USPTO action. Patent No. 7,017,909 has come to the Applicant's attention, which issued on March 28, 2006, and was filed on December 15, 2003 (after the filing date of this application). The 7,017,909 application has interfering claims with this application (for example, claim 29 in this application interferes with claim 3 of the 7,017,909 application). Since this application was filed first, the Applicant is preparing a reexamination request for the 7,017,909 patent. To currently examine this application would raise unnecessary issues because there is already an issued patent on the same invention which does not technically qualify as prior art to this application. Thus, the forthcoming reexamination should determine whether the 7,017,909 application will be invalidated or an interference declared.

The Applicant submits herewith the fee as required by 37 CFR 1.103(2). However, this subsection states that the fee does not have to be included if such cause is the fault of the Office. The Applicant submits that since this application is prior art under 35 U.S.C. § 102(e) to the 7,017,909 patent, it should have been found and cited against 7,017,909 during prosecution of same. Thus, Applicant respectfully requests that he not be charged (or be refunded) the fee.

Please contact the undersigned attorney/application if there are any questions.

Respectfully submitted,

/Jonathan H. Muskin #43,824/
Applicant